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January 14, 1999

VIA HAND DELIVERY

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Deployment of Wireline Advanced Telecommunications Service Capabilities, CC Docket 98-147

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's rules, the Competitive Telecommunications Association ("CompTel"), by its undersigned counsel, hereby gives notice that on January 13, 1999, Genevieve Morelli, Joseph Gillan and the undersigned met with Linda Kinney, Legal Advisor to Commissioner Ness, to discuss the above-captioned proceeding. The attached materials summarize the presentation.

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In accordance with Section 1.1206(b), an original and one copy of this notice is being provided.

Sincerely,

Steven A. Augustino

SAA:pab

Enclosures

cc: FCC staff members listed above

A

Ex Parte Presentation of the Competitive Telecommunications Association

Deployment of
Wireline Services Offering
Advanced Telecommunications Capability
CC Docket No. 98-147

January 13, 1999

Three Principal Issues For FCC Consideration

- Proposal to Create ILEC "Data Affiliates"
- Additional UNEs Needed for Advanced Services
- Collocation Reform

THE COMMISSION'S SEPARATE AFFILIATE PROPOSAL SHOULD BE ABANDONED

- A separate affiliate approach was universally opposed. It is clear that the only reason for the proposal is to avoid Section 251(c) obligations. Adoption of rules for "data affiliates" will create a template for expansion of BOC attempts to avoid 251(c) in other contexts.
- Separate affiliate proposals threaten to stagnate the POTS network by channeling all new investments to the affiliate. Bifurcation of "public" and "advanced" networks freezes the natural evolution of the local network.
- A better course is to insist upon full compliance with Section 251(c) for all services (including advanced services) and experiment with relaxed regulation or alternatives to the sharing of data functionalities after Section 251 has been fully implemented.
- The terms "successor or assign" are ambiguous and should be interpreted consistent with Section 251(c)'s purposes. Any action which replaces or transfers ILEC duties or obligations makes the affiliate a successor or assign.

THE PROPOSED SEPARATION RULES FAIL TO INCLUDE SUFFICIENT SAFEGUARDS

- In addition to the separation rules proposed in the NPRM, any attempt to define a "truly separate" affiliate must include the following additional requirements:
  - **Compliance Plan:** The Commission cannot in this rulemaking proceeding determine that specific entities fulfill its requirements. Because the consequences are so great, the Commission should require ILECs to file plans demonstrating full compliance for each entity that it proposes to operate under any rules adopted herein.
  - **Substantial Independent Ownership:** The threshold requirement to ensuring independent operation is to create a fiduciary obligation to persons other than the ILEC, so that CLEC must be judged as a stand alone enterprise. CompTel recommends that at least 40% of an affiliate's ownership be in independent hands.
  - **Use of UNEs:** Only cost-based transactions (i.e. UNEs) should be permitted between ILEC and its affiliate. Resale is discriminatory because its disadvantages do not apply to an entity under common ownership with the ILEC.
  - **Joint Marketing:** The Commission should prohibit an ILEC and its affiliate from engaging in joint marketing of their services.

THE PROPOSED SEPARATION RULES SHOULD BE STRENGTHENED

- The seven separation requirements proposed in the NPRM should be strengthened as follows:
  - **Joint Ownership:** An ILEC and its affiliate should be prohibited from jointly owning any facilities or property, not just switching facilities. ILEC advantages are not limited to switching capabilities.
  - **Information Advantages:** An ILEC affiliate should not receive any information advantages from its affiliation, including favorable access to CPNI.
  - **Nondiscrimination:** ILEC affiliate should obtain interconnection and access to network elements through tariffs or an interconnection agreement in which individual provisions are made available to competitors.
  - **Transfers of Assets:** Transfers of assets should be prohibited. Transfers would include any use of ILEC brand names (*i.e.,* any name or similar names that might infringe ILEC trade or service marks) and also include transfers of customer accounts.

UNEs Needed For Data Services Should Be Defined On A Functional Basis

- The Commission has authority to define network elements in terms of the physical facilities used, its function, or both.

- In addition to xDSL loops, new entrants also need the ability to move data traffic from designated network points to their own data networks. This type of transport capability is particularly useful for expanding the reach of small entrants' data networks.

- The Commission should define two new network elements enabling new entrants to utilize the data transport capabilities of an ILEC's network.

SHARED DATA CHANNEL UNE

- A Shared Data Channel (SDC) provides data channel functionality between the end user and a point of interface between the ILEC and CLEC's data networks

- The SDC includes sub-data channel elements, such as the loop, DSLAM, and shared data transport (including ATM switching).

- At this time, CompTel recommends that the SDC only be available where the CLEC obtains the entire functionality of the local loop (e.g., provides all services desired by the customer over that loop).

SHARED DATA TRANSPORT UNE

- Shared Data Transport (SDT) provides packetized transport between a CLEC's data network and any other point in the ILEC network that interfaces with a packet device.
- The SDT element would enable a CLEC to connect its own DSLAM with its data network.
- The SDT should be available in any transmission mode (IP, ATM, etc.) as used by the ILEC.

Collocation Issues

The Commission should use its authority pursuant to Section 251(c)(6) to adopt rules that require ILECs to:

- Offer cageless collocation as a standard interconnection offering;
- Eliminate restrictions on the types of equipment that may be collocated;
- Improve "traditional" collocation processes and provisioning.

The Commission Should Require ILECS to Offer Cageless Collocation

Many of the concerns with current collocation practices can be traced to the ILECs' requirement that each entrant be isolated to its own caged environment.

- Cage-based collocation wastes space and contributes to space exhaustion.
- Cage-based collocation unnecessarily increases the cost of collocating equipment.
- Cage-based collocation takes additional time to design and construct.

Experience in competitive industries demonstrates that a cage-based collocation environment is unnecessary.

- Cageless collocation arrangements are standard among long distance carriers, internet service providers and competitive LECs.
- Competitive industries are no less concerned with security than are ILECs, but have addressed these issues through commercially reasonable security measures.

Two Forms of Cageless Collocation Should Be Made Available

- **Common Space Collocation** -- ILEC and CLEC equipment are located in the same physical environment, with only the minimum separation necessary to clearly identify each party's equipment. Best uses existing conditioned space and infrastructure.

- **Shared Space Collocation** -- CLEC equipment is physically separated from ILEC equipment, but within the shared area, equipment of individual CLECs is collocated side-by-side in racks and similar arrangements. Shared space collocation differs from common collocation in that it allows ILEC to isolate its own equipment from others. Any cost over and above the cost of providing common space collocation should be borne by ILEC.

Security Can be Maintained Through Common Sense Methods

- **Labelling** – All equipment should be clearly labeled and properly identified.
- **“Key Card” Access** – “Smart” cards are commonly used in competitive collocation situations to restrict and track access to collocated equipment.
- **Video Surveillance** – Continuous video monitoring and recording of collocation areas can identify unauthorized access or improper uses of access.
- **Locking Cabinets** – Locked cabinets enclosing equipment racks can protect against unauthorized access.

Restrictions On The Types Of Collocated Equipment Should Be Eliminated

- The industry trend is toward increased functionality in telecommunications equipment. Multi-function equipment typically replaces two pieces of equipment consuming more floor space.
- Any attempt to list or "inventory" permissible equipment will needlessly delay the deployment of state-of-the-art equipment and will lead to costly disputes over the classification of equipment with advanced capabilities.
- FCC should require the collocation of any type of equipment, subject only to nondiscriminatory criteria such as size and safety standards.

Reforms to Traditional Collocation

- CompTel supports the establishment of standardized provisioning intervals and pre-determined penalties for failure to meet provisioning intervals. Collocation should be a clearly defined, predictable product.
- ILECs should conduct "pre-request" surveys of available collocation space. Identification of potential exhaust conditions *before* a CLEC requests space will aid CLEC planning and can help resolve problems on a pro-active basis.
- Parties requesting collocation should be permitted to conduct a "walk-through" of end offices if lack of collocation space is claimed.
- ILECs should remove "retired in place" equipment and reassign space used for non-network purposes to accommodate additional collocation.

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